

805 KAR 1:100. Commission's rules of procedure, spacing of deep well drilling, wild-cat wells, and pooling of interests.

RELATES TO: KRS 61.874, 353.180, 353.510, 353.561 – 353.564, 353.590, 353.5901, 353.592, 353.651, 353.652, 353.6601 – 353.6606, 353.730, 353.737, Chapter 424

STATUTORY AUTHORITY: KRS 353.565

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.565 authorizes the Kentucky Oil and Gas Conservation Commission to promulgate administrative regulations necessary to prevent waste, protect correlative rights, govern the practice and procedure of the commission, and administer the provisions of KRS 353.651 and 353.652. KRS 353.565(5) and (7)(a) require the Kentucky Oil and Gas Conservation Commission to administer and enforce the provisions of KRS 353.651 and 353.652 by regulating the spacing of deep well drilling, drilling units, and pooling of interests. This administrative regulation establishes requirements related to drilling deep vertical and deep horizontal wells for the purpose of oil or gas extraction.

Section 1. Definitions. (1) "Commission" is defined by KRS 353.510(4).

(2) "Correlative rights" is defined by KRS 353.510(6).

(3) "Deep well" is defined by KRS 353.510(16).

(4) "Director" is defined by KRS 353.510(3).

(5) "Drilling unit" is defined by KRS 353.510(19).

(6) "Field" is defined by KRS 353.510(10).

(7) "Gas" is defined by KRS 353.510(8).

(8) "Horizontal well" is defined by KRS 353.510(25).

(9) "Oil" is defined by KRS 353.510(7).

(10) "Operator" is defined by KRS 353.510(17).

(11) "Overriding royalty interest owner" means a person other than a royalty owner, with a right to a percentage share of production or the value derived from production that is:

(a) Free of all costs of drilling and production; and

(b) Created by the lessee or working interest owner and paid by the lessee or working interest owner.

(12) "Person" is defined by KRS 353.510(5).

(13) "Pool" is defined by KRS 353.510(9).

(14) "Prevailing royalty" is defined by KRS 353.510(27).

(15) "Royalty owner" is defined by KRS 353.510(18).

(16) "Vertical well" is defined by KRS 353.510(26).

(17) "Well" is defined by KRS 353.510(14).

(18) "Wildcat well" means any deep vertical or horizontal well that is drilled:

(a) With the intent of discovering or producing hydrocarbons from a formation or formations not previously productive of oil or gas well within 10,000 feet of its location; or

(b) Under proven geological conditions that, even though located within 10,000 feet from the nearest deep well previously productive of oil or gas, will not, if completed successfully, produce from a previously productive pool.

(19) "Working interest owner" means an operator with the obligation to bear all or a proportionate share of the costs and expenses of unit operation.

Section 2. Rules of Procedure. (1)(a) Except as established in paragraph (b) of this subsection, all orders of the commission establishing drilling units, pool or field-wide units, or special field rules shall be issued only after notice and hearing in accordance with this administrative regulation and consistently with the provisions of KRS 353.500 to 353.720.

(b) The commission may issue emergency orders without notice and without an initial hearing upon a finding of necessity to prevent waste, irreparable injury, or other cause.

1. An emergency order shall remain in effect for not more than forty-five (45) days from the effective date.

2.a. Immediately upon entering an emergency order, the commission shall call a hearing on the subject matter thereof.

b. The hearing shall be held prior to the expiration of the order.

(2) A public hearing pursuant to KRS Chapter 13B shall be conducted by the commission:

(a) As a result of a reported violation of a requirement of this administrative regulation;

(b) To consider a permit application;

(c) Upon a request to establish a drilling unit, pool, field-wide unit, or special field requirement; or

(d) To consider a combination of items established in paragraphs (a) through (c) of this subsection.

(3) All hearings before the commission shall be open to the public. Hearings shall be called by the commission for the purpose of taking an action in respect to any matter within its jurisdiction upon its own motion or upon the request of any interested party. Requests for hearing (except as otherwise provided herein) shall be written and may be in the form of a letter, shall be brief and concise, shall state in general terms the matter upon which action of the commission is desired, the interest of the applicant, or person making the request, the action sought, and the reasons therefor.

(4) The director shall maintain a docket book for the commission.

(a) Each written request for a hearing and each hearing called on motion of the commission shall be docketed and given a docket number, and a file carrying each number shall be opened by the director.

(b) Each written request for a hearing; a copy of the notice of hearing, together with proof of its publication pursuant to subsection (7) of this section; the originals of all instruments, documents, plats, and other data filed in connection with the hearing or the subject matter thereof; a transcript of all evidence taken at the hearing; and the originals or copies of all correspondence with the commission concerning the hearing or the subject matter thereof shall be stamped with the docket number of the hearing and placed and kept in the file carrying the number.

(c) The docket book and all files pertaining to hearings shall be open to the public at all reasonable times but shall not be removed from the custody of the commission or its employees.

(d) Copies of written requests for hearings, instruments, documents, plats, other data, and correspondence shall be furnished to any interested party upon payment of the cost of making such copies in accordance with the Kentucky Open Records Act, KRS 61.874.

(e) Each notice of hearing shall refer to the docket number thereof.

(5) All hearings shall be held in Frankfort, Kentucky, unless otherwise ordered.

(6)(a) Upon receipt of a proper request or completed application for hearing, the commission shall call a hearing within thirty (30) days.

(b) Within thirty (30) days after the conclusion of the hearing, the commission shall take action with regard to the subject matter thereof.

(7)(a) Notice of each hearing shall be given by publication in accordance with KRS Chapter 424.

(b) If required by KRS 353.651 or 353.652 to give personal notice to all persons reasonably known to own an interest in the oil and gas in an area to be unitized or for which special field rules are proposed, the commission shall give the notice by registered mail unless a person has given a mailing address as established in subsection (8) of this section.

(8)(a) The director shall maintain a general mailing list of the names and addresses of all

persons who make request in writing to be included on the general mailing list. Each person on the general mailing list shall be mailed by first class mail at the address listed a copy of all notices and orders issued by the commission.

(b) The director shall maintain a mailing list for each field in the state containing one (1) or more deep wells and shall place on each mailing for each field list the names and addresses of all persons who make request in writing to be included. Each person included on the mailing list for a field shall be mailed by first class mail at the address listed a copy of all notices and orders issued by the commission pertaining to that field.

(c) The failure to mail a copy of a notice to a person on a list established by this section shall not invalidate a hearing held pursuant to this section unless the person omitted from the notice mailing is known to own an interest in the oil and gas in an area to be unitized and for which special field rules are proposed.

(9) Each notice of a hearing shall state the:

- (a) Time and place of the hearing;
- (b) Name of the party requesting the hearing;
- (c) Nature of the hearing;
- (d) Action sought; and
- (e) Docket number.

(10) A notice by personal service shall not be necessary except as required by KRS 353.651 or 353.652 and to each person reasonably known to have an interest in the proceedings before the commission.

(11) After notice of a hearing is once given, the hearing may be continued to another day and from day to day by order of the commission entered on the day fixed for the hearing.

(12) An interested person shall have the right to be heard at a hearing and to present witnesses and other evidence whether or not represented by legal counsel or technical assistance. In addition to verbal testimony, the commission may require any protest made to be reduced to writing and filed.

(13) In a proceeding before the commission subpoenas may be issued requiring the attendance of witnesses and the production of books, records, maps, charts, diagrams, and other pertinent documents material to the matters lawfully before the commission at the designated place of hearing.

(14) Each hearing shall be opened with the reading of the notice or notices. The request for hearing, the notice or notices thereof, and proof of the due publication of the notice or notices of the hearing shall be made a part of the record of the hearing.

(15) Each witness shall be required to testify under oath, administered by a member of the commission, to tell the truth, the whole truth, and nothing but the truth, and all witnesses shall be subject to direct and cross-examination by any member of the commission or by any party or the party's legal representative.

(16) In all noncontested matters or in contested matters in which those parties who appear in person at the hearing agree thereto, sworn affidavits may be received in evidence. The commission reserves the right to reject an affidavit and to require the affiant to appear in person if more information is necessary.

(17) The materiality, relevancy, and competency of any testimony or other evidence shall be subject to challenge by any party to the hearing or by any member of the commission. An objection shall be acted upon by the chairman or by the acting chairman, the ruling thereon being subject to change by a majority vote of the commission members present.

(18) Each party presenting an exhibit shall file a total of eight (8) copies with the reporter. A suggested form of order shall be filed as five (5) copies. These requirements may be waived by the commission if compliance would be unduly burdensome.

(19) The commission shall by order entered on its minutes appoint a competent reporter or videographer.

(a) Each hearing shall be recorded by a reporter or videographer appointed by the commission and sworn faithfully to discharge his or her duties.

(b) The reporter or videographer shall transcribe or record hearings only upon order of the commission.

(c) If a transcript or video record is ordered by the commission, the transcript or video record shall be available for:

1. Inspection at the office of the commission in Frankfort; and
2. Purchase by parties from the reporter or videographer at rates prescribed for transcripts of evidence or video records in circuit court proceedings in Kentucky, whether ordered transcribed by the commission or not.

Section 3. Permitting and Spacing of Wildcat Wells. (1) The 10,000 feet from a horizontal wildcat well shall be measured as 10,000 feet from any point along the lateral portion of the wellbore that is located in the productive formation.

(a) Proof supporting permitting of a well located less than 10,000 feet from the nearest deep well previously productive of oil or gas shall be submitted to the director with the permit application.

(b) If a deep well encounters a formation or pool as to which it is not a wildcat well, it shall not be produced unless it is otherwise in compliance with the permit requirements and spacing requirements established in Section 4 of this administrative regulation for other wells in that formation or pool.

(c) The director may grant permission to test previously producing formations encountered in the drilling of a wildcat well and shall establish permit conditions to protect the formation or formations tested and the rights of the operator of any well or wells producing therefrom. If the director grants permission for testing, the other members of the commission shall be informed in writing of the action.

(d) If an operator files an Application for Permit, ED-I, incorporated by reference in 805 KAR 1:140, which does not meet the spacing provisions of this section, the director shall notify the commission. The commission shall consider the new application if the commission finds, from the new application, that conditions warrant an exception to this section.

(2) Within ninety (90) days following the completion of testing by surface production test of a wildcat well shown to be capable of production of oil or gas, or within ninety (90) days of completion as a producible well, whichever occurs first, the operator thereof shall file with the commission a plat showing a proposed unit for the well conforming to the rules established in Section 4(1) or 5(2) of this administrative regulation.

Section 4. Drilling and Spacing of Vertical Deep Oil and Gas Wells. (1)(a) If a permit is requested for a vertical deep gas well other than a wildcat well or a well drilled on a unit previously formed by the commission, the Application for Permit, ED-1, incorporated by reference in 805 KAR 1:140, shall include a plat showing a proposed unit comprising a square with sides of 3,500 feet if the well is to be drilled to a depth less than 7,000 feet and with sides of 5,000 feet if the well is to be drilled to a depth of 7,000 feet or more.

(b) If the permit is for a vertical deep oil well, the proposed unit plat shall comprise a square with sides of 1,750 feet if the well is to be drilled to a depth of less than 7,000 feet and 2,500 feet if the well is to be drilled to a depth of 7,000 feet or more.

(c) The first proposed unit for a pool shall be delineated so that the line forming one (1) side of the square is a base line running from south to north parallel to the Kentucky Coordinate

System. All other north-south lines for that proposed unit and any additional units for the same pool shall be drawn parallel to the base line.

(2) Except as established in subsections (4) and (5) of this section, a vertical deep gas well drilled to a depth:

(a) Less than 7,000 feet shall not be located within 1,072 feet of the boundary of the proposed unit; and

(b) Of 7,000 feet or more shall not be drilled within 1,532 feet of the boundary of the proposed unit.

(3) Except as established in subsections (4) and (5) of this section, a deep oil well drilled to a depth:

(a) Less than 7,000 feet shall not be located within 536 feet of the boundary of the proposed unit; and

(b) Of 7,000 feet or more shall not be drilled within 766 feet of the boundary of the proposed unit.

(4)(a) Pursuant to paragraph (b) of this subsection, upon receiving evidence showing a necessity, the director shall grant a permit in accordance with subparagraphs 1. through 4. of this paragraph. A vertical deep:

1. Oil well at a depth less than 7,000 feet shall not be located closer than 438 feet to the boundary of the proposed unit;

2. Oil well at a depth of 7,000 feet or more shall not be located closer than 625 feet to the boundary of the proposed unit;

3. Gas well at a depth of less than 7,000 feet shall not be located closer than 875 feet to the boundary of the proposed unit; and

4. Gas well at a depth of 7,000 feet or more shall not be located closer than 1,250 feet to the boundary of the proposed unit.

(b) The director shall not grant a permit pursuant to the provisions of paragraph (a) of this subsection except in the presence of evidence that supports that the proposed location is justified by either topographical or geological conditions. Upon granting this permit, the director shall inform the other members of the commission of his or her action in writing.

(c) Prior to the time a certificate of compliance is granted and a well located in accordance with paragraph (a) of this subsection is produced other than for the purpose of testing, the director shall determine if a hearing is necessary for the purpose of taking any special action that may be required to offset any advantage resulting from the location of the well according to the permit and thus protecting correlative rights of others with interests in the pool. If it is determined that special action is necessary, the director shall call a hearing of the commission.

(5)(a) A location that varies from the limitations established in subsections (2) to (4) of this section shall be granted if the commission determines, after notice and hearing, and the facts clearly support the determination, that a proposed unit or a previously formed unit is partly outside the pool, or, for some other reason, a well located in accordance with the statewide rules could not reasonably be expected to be productive or topographical conditions are such as to make the drilling at such a location unduly burdensome. A written request for an exception location shall be accompanied by a plat drawn to the scale of not smaller than 1:12,000 accurately showing to scale the proposed location of the well according to the Carter Coordinate System and all other deep wells within two (2) locations of the proposed location.

(b) If an exception location is sought on the ground of topographical conditions, it shall be demonstrated that the commission can effectively offset any advantage to the applicant accruing from the variation.

(c) If an exception location is granted, the commission shall take concurrent action as required to offset any advantage to the applicant and thus to protect the correlative rights of oth-

ers with interests in the pool. If the proposed unit or already formed unit is of less acreage than that prescribed by the applicable spacing rule for a regular unit, if proposed or formed according to special field orders for the pool in question, the special unit shall be allowed to produce only in the proportion that the acreage content of the special unit bears to the acreage content of a regular unit.

(6) A proposed unit, a portion of a proposed unit, or a unit formed by order of the commission upon which a well is located shall not be attributed, in whole or in part, to any other drilling or producible well in the same pool.

(7)(a)1. Unless authorization to intentionally deviate and directionally drill a well is granted by the commission, every well shall be drilled in such a manner that at any measured depth the actual or apparent location of the well bore shall be within a circle whose center is the surface location and whose radius is equal to the measured depth multiplied by a factor 0.087156.

2. The actual or apparent resultant deviation of the well bore from the vertical shall not be in excess of five (5) degrees at any measured depth.

3. In the event a directional survey indicates that the well bore is outside the above circle at any measured depth, the deviation shall be corrected so that drilling shall be restored to the specified limit.

4. Upon completion of a survey indicating that a well may be deviated beyond the above prescribed tolerance, the operator shall inform the director.

5.a. If an operator has commenced drilling a well and desires to change the bottom hole location by directionally controlling and intentionally deflecting the well from the vertical, whether more or less than five (5) degrees, unless done to straighten the hole or to sidetrack debris in the hole or because of other mechanical difficulties, the operator shall first make application for an amended location showing by attached plat the amended projected bottom hole objective and secure an amended permit to drill before commencing.

b. The amended bottom hole location or objective shall comply with all minimum distances from unit lines as required by all statewide orders or applicable field orders.

(b) In the event a well is to be drilled at a distance from a unit line where the distance is less than the apparent resultant lateral deviation, as determined by multiplying the proposed total depth of the well by the factor 0.087156, a permit to drill shall be issued and the operator shall be required to submit to the commission inclination or directional survey data as proof that the well shall be completed in compliance with the provisions of this administrative regulation before a certificate of compliance is issued.

1. An inclination survey shall be made on each well drilled with the first shot point at a depth not greater than that of the surface casing seat and succeeding shot points not more than 1,000 feet apart.

2. Inclination surveys conforming to this section shall be made either during the normal course of drilling or after the well has reached total depth.

3. Survey data shall be certified by the operator's representative or drilling contractor and shall indicate the resultant lateral deviation as the sum of the calculated lateral displacement determined between each inclination survey point, assuming that all displacement occurs in the direction of the nearest unit line.

4. If a directional survey determining the bottom of the hole is filed with the commission upon completion of the well, there shall not be a requirement to submit the inclination survey data.

(c) An applicant for a hearing to issue special field orders for a new pool or otherwise to establish a drilling unit, or any interested party, may request that the commission pool the interests of the owners and the royalty owners in any unit or units established as a result of the hearing.

1. A request to pool separately owned tracts concurrently with the establishment of a unit or units shall be submitted with the written request for the hearing, or sufficiently in advance to include notice of the request in the notices of hearing.

2. If necessary, the commission shall on its own motion include the pooling of separately owned tracts in the notice of a hearing to establish a unit or units.

3. If separately owned tracts are not pooled as a result of the hearing to establish a unit or units, any interested party may request pooling at any subsequent time.

4. If the owners and royalty owners have not agreed to pool their interests within 120 days of the issuance of a certificate of compliance, the operator of the well shall apply for a hearing to issue a pooling order.

(8) Additional permits for a deep vertical well shall not be issued for the pool until a proposed unit plat is filed. Once the plat is filled for a wildcat well or any subsequent wells, additional permits for a deep vertical well shall not be issued if the permits will violate the integrity of the proposed unit or the spacing regulations established by this section.

Section 5. Horizontal Unitization and Looking for Deep Well Reservoirs. (1) In accordance with the procedures established in this section, the commission shall unitize a productive deep well reservoir for the drilling of horizontal wells for the purposes of:

- (a) Achieving a greater ultimate recovery of oil and gas from the reservoir;
- (b) Preventing waste; and
- (c) Protecting the correlative rights of the owners of oil and gas in the unit.

(2) If the Application for Permit, ED-1, incorporated by reference in 805 KAR 1:140, has been submitted or well permits have been submitted for multiple horizontal wells to be drilled from a single well pad, the proposed operator of those wells may simultaneously or thereafter apply to create a unit for the coordinated drilling and operation of the well or wells and the allocation of costs and production from the well.

(a) A written request to create a unit shall include:

- 1. All information required by KRS 353.652 and 805 KAR Chapter 1; and
- 2. A plat of the proposed unit.

(b) For a single deep horizontal well, the plat shall also include the:

- 1. Surface location of the proposed well;
- 2. Directional path of the lateral portion of the wellbore; and
- 3. Point of entry into any proposed producing formation.

(c) For multiple deep horizontal wells to be drilled from a single well pad, the plat shall show the plan of development for the unit that shall include the:

- 1. Surface location of each well;
- 2. Directional path of the lateral portion of the wellbore; and
- 3. Point of entry into any proposed producing formation.

(d) The plan of development shall be fair, reasonable, equitable, and shall meet all requirements of this section and KRS 353.651 and 353.652.

(3) If the director determines the permit requirements for the wells included in the proposed deep horizontal well unit have been met, the director shall notify the commission within five (5) working days of the pending application, and the commission shall set a hearing date for the commission to review and consider the requested unit. The hearing shall be held not more than thirty (30) days from the date the director has notified the commission of the pending application.

(a) The director shall forward to the commission a complete copy of the applications for the deep horizontal well permits and unit designation and all documents and information filed.

- 1. If, upon reviewing the written request for the unit, the commission determines that it does

not have sufficient data to make the findings required by KRS 353.652, the commission shall request additional information from the applicant prior to the hearing.

2. If additional information is requested by the commission, the commission shall so notify the operator, and the additional information shall be filed with the commission prior to the hearing or it shall be presented to the commission at the hearing.

(b) Upon the request of the operator, and to the extent the commission is legally authorized to do so, the commission shall keep confidential for a period of one (1) year following the date the deep horizontal well is completed, any geological or technical information provided in support of a proposed unit.

(4) The commission shall consider the complete application for the proposed deep horizontal well unit based on information and testimony presented by the operator at the hearing that the unit is necessary to prevent waste and to protect correlative rights and that it shall result in the increased recovery of substantially more oil and gas from the reservoir than would otherwise be recovered based upon:

(a) Geological features existing with the proposed unit delineated by the geologically defined limits of the producing reservoir;

(b) Unit size, determined by estimating the likely drainage area for the proposed deep horizontal well, considering the well depth, the reservoir pressure, and other geophysical and petrophysical characteristics of the particular formation;

(c) The proposed location or orientation of the proposed deep horizontal well;

(d) The length of the laterals of the proposed deep horizontal well;

(e) The proposed use of multilateral deep horizontal wells, if applicable;

(f) The anticipated principal fluid and anticipated total volume to be used in the well treatment; and

(g) A combination of the factors established in paragraphs (a) through (f) of this subsection.

(5)(a) After notice and hearing, the commission shall determine if the:

1. Proposed pooling or unitization of the reservoir is reasonably calculated to increase the ultimate recovery of oil and gas from the reservoir through the use of horizontal well technology;

2. Use of horizontal well technology to drill the proposed deep horizontal wells in the reservoir:

a. Is feasible;

b. Will prevent waste;

c. Will protect correlative rights; and

d. Will with reasonable probability result in the increased recovery of substantially more oil and gas from the reservoir within the unit than would otherwise be recovered; and

3. Unitization and the use of horizontal well technology to drill the proposed deep horizontal wells is for the common good and will result in the general advantage of the royalty owners within the unit.

(b) Upon making these findings, the commission shall enter an order approving the creation of the proposed drilling and production unit and providing for the pooled or unitized operation of the deep well reservoir described in the order, all upon terms and conditions shown by the evidence to be fair, reasonable, equitable and that shall be necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and the royalty owners.

(6) The order of the commission creating the unit shall:

(a) Approve the size and shape of the unit;

(b) Approve and adopt the plan of development for the unit, with a copy thereof attached to the order;

- (c) Designate the unit operator;
 - (d) Provide that the unit shall automatically terminate upon the expiration of all the well permits for the proposed deep horizontal wells within the approved unit; and
 - (e) Provide that, within ninety (90) days of the expiration of the permits for the proposed deep horizontal wells remaining undrilled in the approved plan of development, the designated unit operator shall apply for reformation of the drilling unit to conform the unit size and shape to the actual development that occurred.
- (7) From and after the effective date of the order of the commission approving the unit, the interest of each royalty owner and overriding royalty interest owner in the unit shall be the percentage of interest owned by such royalty owner or overriding royalty interest owner in each separate tract, multiplied by the proportion that the acreage in each separately owned tract bears to the entire acreage of the unit. The order shall provide for the right of the designated operator of the unit to drill through separately owned tracts that have been pooled voluntarily or by order of the commission within the unit as necessary in order to efficiently develop the pooled or unitized production.
- (8) The costs incurred in connection with and the production and proceeds from the wells in the unit shall be allocated to each separate tract in the unit and shall be borne or shared by the working interest owners in each separate tract based upon and determined by the interest of each working interest owner in the tract. For the purpose of this section, any owner or owners of oil and gas rights in and under an unleased tract of land within the unit, shall be regarded as a royalty interest owner to the extent of the prevailing royalty in and to the rights and a working interest owner to the extent of the remaining interests therein.

Section 6. Certificate of Compliance. Prior to producing oil or gas from a deep well, other than test production for a period not in excess of sixty (60) days, the operator shall apply for and obtain a certificate of compliance from the director.

(1) The written request for the certificate of compliance shall be verified, and shall provide information, including an "as-built" plat of each well in the unit, that the permitted deep well as proposed in the unit application and plan of development, if applicable, were completed as set forth or in accordance with the final reformation of the drilling unit approved by the commission.

(2) The director shall issue the certificate of compliance or notify the operator of a decision not to issue the certificate of compliance within fifteen (15) days of receipt of an application.

Section 7. Request for Special Field Orders for Wells. (1) If a new pool is penetrated and a well is proven by surface production test to be capable of producing oil or gas in paying quantities, the operator shall, within 120 days after the test is completed or after the well is completed as a producible well, whichever occurs first, or within sixty (60) days of the completion of a confirmation well in the pool, whether drilled by the operator or another operator, request a hearing to issue special field orders governing the spacing of wells and establishment of units in the pool.

(2) A written request for special field orders shall contain a plat showing all wells in the pool affected and the unit or units proposed for the pool.

(3) If upon testing a discovery well the confirmation well should not or cannot reasonably be located in accordance with the statewide spacing rules, the operator shall proceed by requesting a hearing to obtain an exception location.

Section 8. Reformation of Drilling Units. (1) Drilling units approved by the commission may be reformed only upon notice and hearing as required by KRS 353.651, to exclude previously included acreage or to include new acreage, or both.

(2)(a) A request for a hearing to reform drilling units shall specify that there:

1. Is new geological data;
2. Is new geophysical data; or
3. Was a change in the proposed drilling of each well in the approved unit and plan of development that will form a basis for the requested reformation and generally describe the source and nature of the data.

(b) A unit shall not be reformed in the absence of the data required by paragraph (a) of this subsection.

(c)1. New data shall be data not in existence at the time of the hearing, resulting in the formation of the units proposed for reformation.

2. Reinterpretation of data existing at the time of the prior hearing shall not serve as a basis for reformation.

Section 9. Testing of Water Sources near Deep Wells Employing High-Volume Horizontal Fracturing. At least twenty (20) days prior to commencement of the high-volume horizontal fracturing treatment on a horizontal deep well, an owner or operator shall conduct a baseline water quality test of each down-gradient surface water impoundment or water supply from a groundwater source used for domestic, agricultural, or industrial purposes within 1,000 feet of a deep horizontal wellhead pursuant to KRS 353.6602.

(1) The owner or operator shall submit a notarized Analysis of Groundwater Source within 1,000 Feet of Deep High-Volume Horizontal Fracturing Treatment, Form ED-40, identifying the:

- (a) Well operator;
- (b) Well name and number; Division of Oil and Gas permit number;
- (c) Water source to include domestic water well, ponds, springs, and streams;
- (d) Water source owner and permanent address;
- (e) Distance water source from wellhead; and
- (f) Dates of initial baseline and subsequent (after fracturing treatment and well completion) water analysis.

(2) Water well quality testing to establish baseline parameters shall be completed and submitted to the Division of Oil and Gas thirty (30) days prior to hydraulic fracturing pursuant to KRS 353.6602.

(3) Laboratory analysis shall be conducted by a certified laboratory pursuant to KRS 353.6602(2).

Section 10. Incorporation by Reference. (1) "Analysis of Groundwater Source within 1,000 Feet of Deep High-Volume Horizontal Fracturing Treatment", Form ED-40, April 2015, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Division of Oil and Gas, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (1 Ky.R. 1403; 2 Ky.R. 155; eff. 8-13-1975; 41 Ky.R. 2355; 42 Ky.R. 46; 1180; eff. 9-3-2015, TAm eff. 7-6-2016; Crt eff. 6-27-2018.)